

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SARAH ZELLER and SCOTT ZELLER,

Plaintiffs,

v.

CANADIAN NATIONAL RAILWAY
COMPANY, *et. al.*,

Defendants.

Case No. 13-13729

Honorable John Corbett O'Meara

ORDER OF PARTIAL DISMISSAL

Plaintiffs Sarah and Scott Zeller's initial complaint in this suit, filed August 30, 2013, identified one of the defendants as "Defendant, Canadian National Railway's U.S. subsidiary, Grand Trunk Western Railroad Incorporated, a Delaware corporation." Compl. at 3. In the First Amended Complaint, filed February 27, 2015, Plaintiffs identified Grand Trunk Western Railroad Company as "a Michigan corporation." First. Am. Compl. at 2. The First Amended Complaint alleged the following four causes of action: Count I, violations of Title VII of the Civil Rights Act of 1964; Count II, negligence under the Federal Employer's Liability Act, 45 U.S.C. §§ 51 *et. seq.*; Count III, common law negligence; and Count IV, loss of consortium.

Although Plaintiff's causes of action arising under federal law are cognizable in this court pursuant to 28 U.S.C. § 1331, the remaining allegations of the complaint are based solely on state law. The parties to this action are now found not to be diverse. The court declines to exercise supplemental jurisdiction over Plaintiffs' state law claims in order to avoid jury confusion. See 28 U.S.C. § 1367(c); United Mine Workers v. Gibbs, 383 U.S. 715 (1966); and Padilla v. City of

Saginaw, 867 F. Supp. 1309 (E.D. Mich. 1994). Therefore, it is hereby **ORDERED** that Counts III and IV of the First Amended Complaint are **DISMISSED**.

s/John Corbett O'Meara
United States District Judge

Date: June 30, 2015

I hereby certify that a copy of the foregoing document was served upon counsel of record on this date, June 30, 2015, using the ECF system.

s/William Barkholz
Case Manager